

18 December 2008

Regulations governing the organisation of the Swiss Financial Market Supervisory Authority FINMA

(Organisational Regulations FINMA)

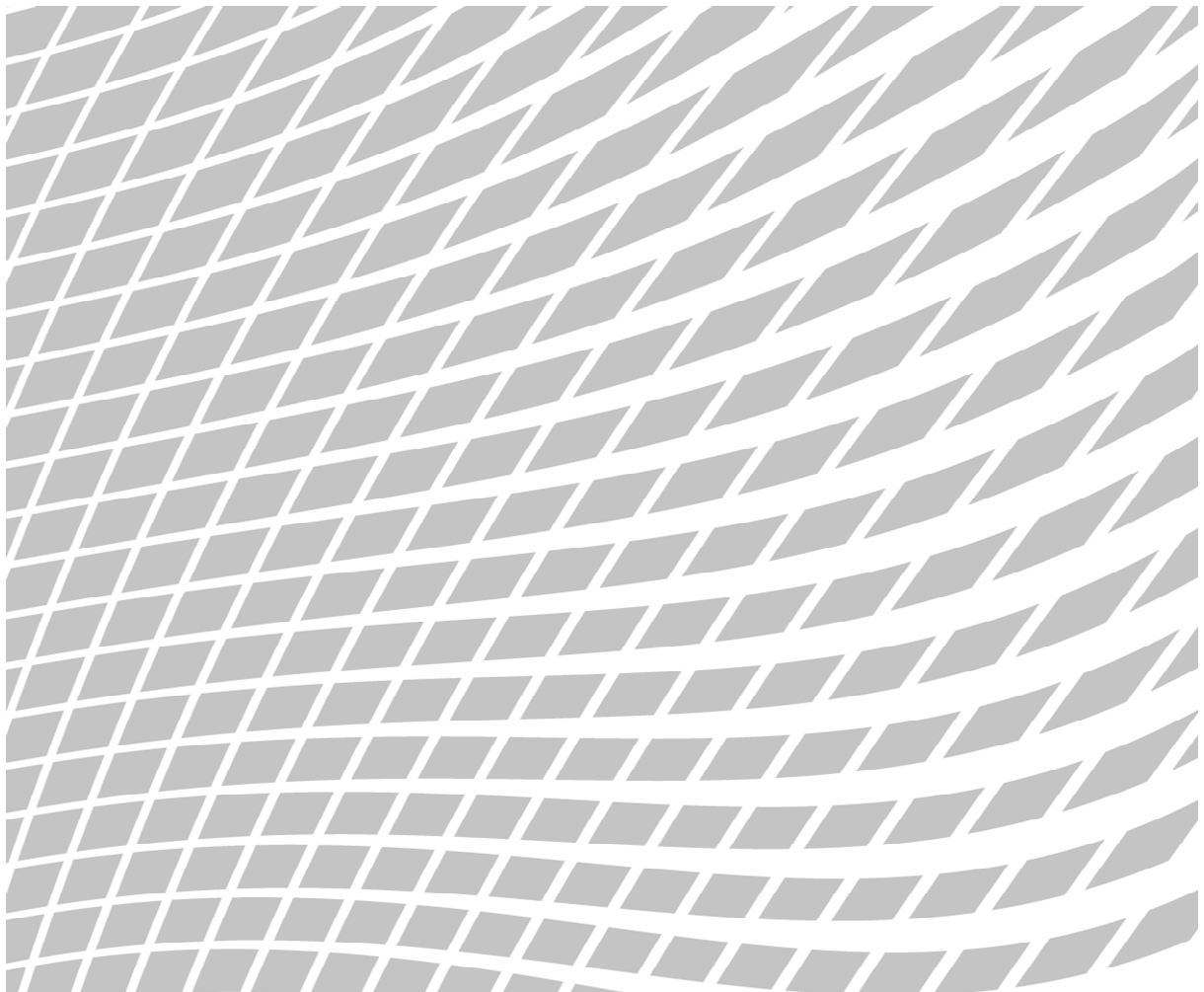


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The Board of Directors of the Swiss Financial Market Supervisory Authority (FINMA) hereby decrees the following,

based on Article 9 paragraph 1 (i) of the Federal Act on the Swiss Financial Market Supervisory Authority (FINMASA) of 22 June 2007:

Section 1: General provisions

Art. 1 Subject

These regulations define the framework for the organisation, tasks and responsibilities of the Board of Directors, the Executive Board and the internal audit unit and shall apply in addition to the provisions of FINMASA.

Section 2: Board of Directors

Art. 2 Tasks of the Board of Directors

¹ The Board of Directors is the strategic body of FINMA. It is FINMA's supreme governing body and oversees and controls the Executive Board.

² The Board of Directors performs in particular the following tasks:

- a. It sets out FINMA's strategic goals and submits them to the Federal Council for approval.
- b. It issues the ordinances delegated to FINMA and decides on the circulars to be issued.
- c. It appoints the Director¹ and his deputy and terminates the Director's employment relationship if the prerequisites for the performance of his office are no longer met. The election and termination of the Director's employment relationship shall require the approval of the Federal Council.

¹ For reasons of easier readability this text does not use gender-neutral terminology and any masculine terms shall generally be construed to infer the feminine and vice versa.

- d. It decides on the appointment and termination of the employment relationship of the members of the Executive Board. The Director shall have the right to propose candidates for membership.
- e. It defines the provisions for the employment of any members of staff in an ordinance. In addition, it defines the principles of the employee benefit institutions.
- f. It decides on applications made by its committees and members and by the Executive Board.
- g. It oversees the Executive Board and approves the Business Regulations.
- h. It decides on the organisational structure consisting of domains.
- i. It issues a Code of Conduct which applies to the Board of Directors and all employees.
- j. It appoints an internal audit unit and oversees the internal auditing process.
- k. It issues the Organisation Regulations, the guidelines for the implementation of the regulatory principles and the guidelines on information and communication.
- l. It approves the financial planning, the budget forecast and the annual accounts and defines the applicable accounting standards in accordance with the principles of Art. 18 FINMASA.
- m. It prepares the annual report and submits it to the Federal Council for approval prior to publication.

³The Board of Directors decides on business matters of substantial importance. Matters of substantial importance are defined in particular as:

- a. matters that have considerable consequences for the financial markets or are of systemic significance as evidenced at one or more of the entities supervised;
- b. matters that are of particular interest for the general public;
- c. matters that result in the establishment of a major body of practice or a change thereto;
- d. matters involving a high liability risk for FINMA or that have long-term effects on the reputation of FINMA;
- e. matters that are designated as such by at least three members of the Board of Directors.

⁴ Where there is doubt concerning matters that the Board of Directors is required to decide upon on account of their substantial importance, the Chairman of the Board of Directors shall decide after consultation with the Director.

⁵ The parties concerned shall not be entitled to request that their matter be decided upon by the Board of Directors.

Art. 3 External contacts of the Board of Directors

¹ The Chairman and any other designated members of the Board of Directors shall maintain contacts with the relevant persons, authorities and organisations in Switzerland and abroad, as far as such contacts are required for the performance of their tasks and are in the interests of FINMA.

² The mandate to maintain and the coordination of these contacts shall be discussed and agreed between the Chairman of the Board of Directors and the Director.

³ The Board of Directors and the Director shall be informed of any external contacts that take place.

Art. 4 Committees of the Board of Directors

¹ The Board of Directors shall set up an audit committee, an appointment and remuneration committee, a strategy committee and a takeover committee formed from members of the Board. If necessary, additional persons may be consulted.² Unless otherwise provided for, the committees shall perform advisory tasks and make proposals to the Board of Directors. They shall be presided over by a chairman who maintains contact with the Board of Directors and the Executive Board.

³ The Board of Directors may form ad hoc committees from its members to prepare items of business or may delegate such tasks to individual members, in particular to specialists in specific areas of expertise.

⁴ The Board of Directors assigns the mandates in writing.

Art. 5 Convening meetings of the Board of Directors

¹ Meetings of the Board of Directors shall be convened by the Chairman and, if he is unavailable, by the Vice-Chairman.

² Each member of the Board of Directors and the Director shall be entitled to request at any time that a meeting of the Board of Directors be convened.

³ The Chairman of the Board of Directors shall table the items for discussion after consultation with the Director, decide on the particular confidentiality of each item of business and set the agenda for the meeting.

⁴ The invitations to the meeting participants shall as a rule be sent out 10 days prior to the meeting stating the items of business to be dealt with and attaching the necessary documentation. The person responsible for a particular item of business shall ensure that the documentation is sent to the participants in good time.

⁵ If there are important reasons this period of notice may be less than 10 days and/or the participants may waive dispatch of the documentation prior to the meeting.

Art. 6 Moderating the meeting

¹ The meetings of the Board of Directors shall be presided over by the Chairman.

² Each member of the Board of Directors may request in writing up to 14 days prior to the meeting that an item of business be placed on the agenda.

³ If the Chairman is unable to attend or preside over the meeting, the meeting shall be presided over by the Vice-Chairman and if he is unable to attend by another member of the Board of Directors.

⁴ For business which requires a decision to be taken a motion must be tabled by the member of the Executive Board responsible with the consent of the Director.

Art. 7 Attendance at meetings of the Board of Directors

¹ The Director and the members of the Executive Board shall generally attend the meetings of the Board of Directors and present the business items from their areas of responsibility personally.

² The Chairman may, of his own accord or at the request of a member of the Board of Directors or the Director, invite other persons to attend the meetings of the Board of Directors.

Art. 8 Quorum, voting and elections

¹ The Board of Directors may adopt resolutions if the majority of its members are present.

² Resolutions shall be approved with the majority of the votes of the members present.

³ In the event of a tied vote the Chairman shall have the casting vote.

⁴ Resolutions on business which has not been tabled on the agenda or for which the required information has not been provided ahead of the meeting may only be adopted if all members present agree.

Art. 9 Chairman's resolutions and resolutions by circular

¹ In exceptional cases which do not tolerate delay and where the importance of the business requires it, the Chairman may of his own accord or at the request of the Executive Board take the necessary decisions (Chairman's resolutions) instead of the Board of Directors.

² The Board of Directors shall be informed of such Chairman's resolutions as soon as possible.

³ In urgent cases resolutions may be adopted via circular (including fax and e-mail) provided no member of the Board of Directors demands, within three working days of the motion in question being dispatched, that the matter be discussed in a meeting.

⁴ Circular resolutions may only be adopted by a majority of the votes of all the members of the Board of Directors.

Art. 10 Minutes

¹ Minutes shall be kept of the meetings of the Board of Directors containing a summary of the discussions relevant to the resolutions and the wording of all resolutions adopted.

² The minutes shall be taken by the Secretary of the Board of Directors. If he is absent, the Chairman shall designate a replacement.

³ The minutes shall be signed by the Chairman and the Secretary.

⁴ The minutes shall be approved and passed by the Board of Directors and shall subsequently be sent to the Executive Board, except in the case of confidential or secret business matters.

⁵ Circular resolutions and Chairman's resolutions shall be included in the minutes of the next meeting.

Art. 11 Rules for abstention and incompatibility

¹ The members of the Board of Directors must have specialist knowledge and be independent of the institutions they are supervising. They may not be members of the Executive Board or Chairman/Vice-Chairman of the Board of Directors of the institutions supervised.

² In the event of conflicts of interest or the appearance thereof the rules for abstention shall apply.

³ Existing or potential conflicts of interest must be disclosed. Acceptance of membership in a corporate body of the institutions supervised shall require the consent of the Board of Directors of FINMA. Membership in any corporate bodies shall be publicly disclosed.

⁴ The members of the Board of Directors shall as a matter of principle not hold any shares in the institutions supervised. The details will be set out in the Code of Conduct.

⁵ The members of the Board of Directors shall abstain from voting on business matters

- a. that concern supervised institutions for whom they worked until a year prior thereto;
- b. that concern supervised institutions in which they own shares or that grant them privileges that would constitute a relationship of dependency;
- c. in which they have any other direct personal interest;
- d. in which persons are involved or have a personal interest with whom they have a close personal relationship;
- e. in which they were formerly actively involved themselves;
- f. in relation to which they could be biased for any other reason.

⁶ If the abstention is disputed, the Board of Directors shall decide on it when the member concerned is not present.

⁷ If the legal and actual prerequisites for the exercise of a directorship no longer exist, the member of the Board of Directors concerned shall submit his resignation, even if his period of office is not yet at an end.

Art. 12 Secretary of the Board of Directors

¹ The Secretary of the Board of Directors reports in this function to the Chairman of the Board of Directors.

² The Secretary of the Board of Directors has the following tasks:

- a. to take minutes at the meetings of the Board of Directors;
- b. to handle the administrative organisation of the Board of Directors' meetings;
- c. to support the Chairman in his preparations for the meetings;

d. to perform tasks assigned to him by the Chairman and the Board of Directors.

³ If the Secretary of the Board of Directors is unable to perform his tasks, the Chairman of the Board of Directors shall appoint a person to replace him.

Art. 13 Right to receive information and duty to provide information

¹ Each member of the Board of Directors is entitled to request information from the Executive Board on any and all matters; this shall, however, be subject to compliance with the rules of abstention in conflicts of interest.

² The Executive Board shall inform the Board of Directors regularly about aspects of its activities, the trend of operations and emerging developments.

Section 3: Executive Board

Art. 14 Position and function

¹ The Executive Board performs the tasks which are not reserved to the Board of Directors or the audit unit. It is a collective body with joint responsibility for the operating activities of FINMA.

² The Executive Board has the following main tasks:

- a. to conduct the business operations of FINMA;
- b. to prepare the necessary files and materials for decisions on items of business that fall under the remit of the Board of Directors and to report to the Board of Directors regularly and, in the case of special events, immediately.
- c. to implement the resolutions taken by the Board of Directors and its committees;
- d. to issue rulings on all matters that do not fall to the Board of Directors;
- e. to operate appropriate steering and control systems and to report regularly to the Board of Directors on their effectiveness.

³ The Executive Board shall issue Business Regulations that also define the powers of delegation.

Art. 15 Composition

¹ The Executive Board is made up of the Director and other members.

² The Director is head of the Executive Board: the members of the Executive Board report to the Director.

³ As a rule the members of the Executive Board are responsible for a particular domain.

Art. 16 Deputisation

¹ A deputy must always be designated for the Director and each of the members of the Executive Board.

² If they are absent or unable to attend to their duties, these shall be performed by their respective deputies with the requisite responsibility and accountability.

Art. 17 Enlarged Executive Board

¹ The Enlarged Executive Board includes other key functions in addition to the members of the Executive Board.

² The Director shall designate these key functions and approve the appointment of holders of these key functions at the request of a member of the Executive Board.

Art. 18 Committees

¹ The Executive Board shall form permanent or ad hoc committees together with additional experts.

² The Business Regulations shall define how the permanent committees shall be convened and organised and what powers they shall be assigned.

Art. 19 Organisation

¹ As an operating unit FINMA is divided into different domains at the primary management level. These domains are in turn divided into divisions and groups depending on their size and span of control.

² The domains are as follows:

- a. Large Banking Groups

- b. Banks/Financial Intermediaries
- c. Integrated Insurance Supervision
- d. Insurance Sectors
- e. Markets
- f. Legal/Enforcement/International
- g. Services

Section 4: Common provisions

Art. 20 Signature authorities

¹ The principle of joint signature by two signatories shall apply.

² Any two members of the Board of Directors may sign jointly on behalf of the Board, provided one of them is either the Chairman or the Vice Chairman.

³ Rulings of the Board of Directors shall be signed by the Chairman or Vice-Chairman together with the Director or the relevant member of the Board of Directors.

⁴ Letters to Federal Councillors shall be signed by the Chairman of the Board of Directors after consultation with the Board of Directors.

⁵ Ordinances and Circulars issued by FINMA shall enter into force with the joint signature of the Chairman and the Director.

⁶ Letters of minor significance shall be signed by the Chairman of the Board of Directors alone.

⁷ The Business Regulations shall define any further provisions.

Section 5: Internal audit unit

Art. 21 Organisation

¹ The internal audit unit reports directly to the Board of Directors.

² The effectiveness of the internal audit unit and its collaboration with the external auditors shall be assessed regularly by the audit committee.

³ It may be tasked with the performance of special audits and controls by the Chairman of the Board of Directors, the audit committee or a majority of the Board of Directors at the request of a member of the Board of Directors or the Director.

Art. 22 Mandate

¹ The internal audit unit shall draw up a risk-oriented annual plan of its audit activities in consultation with the audit committee. This annual plan shall be approved by the Board of Directors.

² The unit shall endeavour to ensure a high level of quality in its audits through continuous training and compliance with national and international standards in the industry.

Art. 23 Tasks and powers

¹ The internal audit unit shall provide independent and objective audit and advisory services which are designed to create added value and improve business processes. It supports the organisation in achieving its objectives by applying a systematic and targeted approach to assess the effectiveness of risk management, internal steering/control systems and the governance process and help to improve them.

² It is responsible for verifying compliance with legal, regulatory and other internal provisions. It reports on material and personal deficiencies in the operational organisation.

³ It is required to assess the reliability of documents, reports and other data gathered within the authority.

⁴ The internal audit unit shall have unlimited power to perform audits, provided this is necessary for the fulfilment of its duties. To this end it shall be entitled to receive all information and to be given insight into all documents and any other records.

⁵ The tasks, powers and responsibilities of the internal audit unit shall be set out in an Audit Charter to be approved by the audit committee.

Art. 24 Reporting

¹ The internal audit unit shall maintain permanent contact with the audit committee and shall report to it periodically on the results of the audits conducted. It shall inform the audit committee immediately if it notices any events of particular importance.

² Units or persons mentioned in reports shall generally be given the opportunity to comment on the findings before they are passed on.

Final provisions

Art. 25 Entry into force

These Regulations take effect on 1 January 2009.

Berne, 18 December 2008

SWISS FINANCIAL MARKET SUPERVISORY AUTHORITY

sig.

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Chairman

sig.

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